UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,856	02/11/2004	Nagaraj Jayanth	0315-510/COD	3884

27572 7590 10/19/2005

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

EXAMINER	
TANNER, HARRY B	

ART UNIT	PAPER NUMBER
3744	

DATE MAILED: 10/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/776,856	JAYANTH ET AL.	
	Examiner	Art Unit	
	Harry B. Tanner	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *25 July 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-14* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-14* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 9-10 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharood et al in view of Wiggs. Sharood discloses a compressor assembly having a compressor connected to an electric motor and electronic circuitry including current sensing means (see 610 of Figure 6c) for diagnosing problems with the system including determining how long the compressor has been on (see col. 27, line 42 to col. 28, line 64) and communicating to a computer 190 having a visual display. Wiggs teaches monitoring the status of compressor motor protectors in order to provide an indication as to which motor protector caused the compressor to stop. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sharood such that it included monitoring the status of compressor motor protectors in order to provide an indication as to which motor protector caused the compressor to stop in view of the teachings of Wiggs.

Claims 2-6 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharood et al in view of Wiggs as applied to claim 1 above, and further in view of Katsuki. Katsuki teaches monitoring the demand signal of a compressor and determining when the compressor current is abnormal in response to the demand signal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sharood such that it included

monitoring the demand signal of a compressor and determining when the compressor current is abnormal in response to the demand signal in view of the teachings of Katsuki.

Claims 8 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sharood et al in view of Wiggs as applied to claim 1 above, and further in view of Day, III et al. Day, III teach that the use of a coded sequence of electrical pulses to provide output signals in an indication system is old in the art (see col. 3, lines 42-50). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sharood such that it included the use of same in view of the teachings of Day.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sharood et al in view of Wiggs and Katsuki as applied to claim 2 above, and further in view of Day, III et al. Day teaches the use of a plurality of lights in order to indicate the presence or absence of a fault condition (see 50 for Figures 1 and 2). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the system of Sharood such that it included the use of a plurality of lights in order to indicate the presence or absence of a fault condition in view of the teachings of Day.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-14 rejected under the judicially created doctrine of double patenting over claims 5-16 of U. S. Patent No. 6,758050 since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent. The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: the current claims and the patented claims are directed to the same invention and differ only in that the patented claims recite specifically monitoring the "average ON time" of the compressor rather than the broad "function of time" of the current claims. Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application which matured into a patent. See In re Schneller, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Applicant's arguments filed 7/25/05 have been fully considered but they are not persuasive. For example, with respect to applicant's contention that Sharood fails to teach monitoring a motor protector and Wiggs fails to teach monitoring a motor protector as a function of time, it is noted that the limitation "as a function of time" is a very broad limitation that places very little restriction upon the scope of the claimed invention. Sharood monitors the "on" time of operation of the compressor which

includes monitoring the starting and stopping of the compressor in response to various switches such as high pressure and low pressure switches which protect the compressor motor. It is the examiner's position that the combination of the teachings of Sharood and Wiggs when viewed together would suggest the monitoring of the compressor motor protectors "as a function of time".

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry B. Tanner whose telephone number is (571) 272-4813. The examiner can normally be reached 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner, can be reached on (571) 272-4709. The fax phone

number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://portal.uspto.gov/external/portal/pair. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Harry B. Tanner
Primary Examiner
Art Unit 3744